

Clutching a cherished teddy bear to her side, a severely brain damaged woman died of starvation in Florida last week by court order and, as the whole world knows, that woman was Terri Schiavo.

After reading through a mountain range of letters and emails regarding the recent issues emanating from this heart wrenching case, I was struck by two qualities of the correspondence: passion and misunderstanding.

As a Member of Congress who strongly supported the Incapacitated Persons Act and the compromise legislation dealing only with Mrs. Schiavo's case, I thought it would be in order to address both the passion and misunderstanding that have enveloped this debate.

The passion which this case has engendered speaks well of the heart of this great nation. People in America care about the weak and vulnerable. People in America care about the sanctity of life and the sanctity of marriage. And people care about the necessary limits on the power of the federal government ordained in the Constitution. It was inspiring to read the principled passion that this case inspired on both sides of the issue.

But as pronounced as the passion of public reaction was, so too was the misunderstanding it generated. I believe many in the public misunderstood both the condition of Terri Schiavo and what the constitution provides in due process protection for every person in the United States.

Societies are judged by how they deal with their most vulnerable citizens.

To understand why Congress chose to act, it is of first importance that we understand the precise circumstance of Mrs. Schiavo's condition.

Many advocates of the Florida court's decision referred to her as having been in a "coma" and on "life support." This misunderstanding can be forgiven since so many in the major media repeated these facts despite the inaccurate nature of these terms as descriptions of Mrs. Schiavo's physical condition.

Terri Schiavo was not in a coma. Every day for 15 years, according to her parents, she was conscious and responsive. The degree to which she understood their affections we may never know but she was not in the unconscious state that we most associate with the term "coma."

Terri Schiavo was not on life support. She merely had a tube in her stomach to assist her in obtaining food and water. Most Americans understand the difference between being on a mechanical devise that keeps one's organs working and being provided basic food and water.

I believe that many Americans simply do not understand that this severely brain damaged person was both conscious and responsive and not on life support. Understood in the light of these facts, one may better understand why millions of Americans, the President and bipartisan majorities in the House and Senate chose to act. A disabled woman, who only required food and water to remain alive, was being starved to death.

No American citizen may be deprived of his or her constitutional right to life without due process of law.

In this case, every member of Terri's immediate family believed that the Florida courts had not afforded their daughter her due process rights and earnestly sought the opportunity to appeal her case to the federal courts.

Many opponents of Congressional action argued that the national government should stay out of a matter that falls within the jurisdiction of the state courts. This is an expression of a commitment to limited government at the federal level as described in the 10th Amendment to the Constitution. It is a principle of government that should be respected but it is not without its exceptions.

We are all grateful that during the height of the Civil Rights Movement in the 1960's that President Kennedy and the Congress did not believe that laws pertaining to minorities were exclusively a matter of state law. Then, as now, the President and Congress understood that their oath to support and uphold the Constitution applied to defending those rights for every American.

It was in this spirit that Congress enacted legislation. The issue before the Congress was "does the federal government have a role in ensuring the constitutional rights of every American, even those who live at the mercy of others, are respected and defended?"

Seen in this light, many of my constituents have expressed much greater sympathy with the desire of federal officials of both parties in Congress to take action.

But the action Congress took is also deeply misunderstood.

In almost every letter I received criticizing Congressional action, Hoosiers wrote that Congress was wrong to "intervene in this case" and that Congress was wrong to pass a bill to "have Terri Schiavo's feeding tube reinserted." One major newspaper in Indiana recently published a poll that used this exact language in gauging public support for Congressional action.

The only problem with this is that this is not what Congress passed or the President signed. Regardless of what you may have heard or read, Congress did not vote to overturn the Florida courts or otherwise "intervene in the case." Congress acted, rightly, to give our federal courts the opportunity to review the case and while I disagree with the court's final decision, under our system of government, I accept it without hesitation.

All Congress did for the family of Terri Schiavo was open the doors of the federal courts to hear an appeal of her case, to determine whether or not her constitutional right to due process of law was being protected. That's it.

Congress merely sought to ensure that Terri Schiavo and her family would have the same right to appeal to the federal courts that Scott Peterson and Charles Manson had. Under the constitutional right known as habeas corpus, every inmate on death row in America has the

right to appeal their state court conviction to the Supreme Court of the United States.

Our founders added this specific right to the Constitution because they understood that every American's right to life must never be taken from them without ensuring their constitutional right to due process of law is protected.

Terri Schiavo's Legacy

The passion and misunderstanding of this case will subside and most of us will go on with our daily lives but before we do, let's patch the hole in our system of justice that became apparent in the final days of Terri Schiavo's life.

Congress must now act on the unhappy lessons of this case and ensure that every disabled and incapacitated American will have access to our federal courts should their lives be placed in jeopardy by order of any court. By enacting the Incapacitated Persons Act, the same bill that Congress first adopted in response to the tragic events in Pinellas, Florida, we will make certain that those in our society who suffer from physical or mental disability will have their right to life defended in the highest court in the land.

There can be no greater tribute to the memory of this fragile woman and her dedicated family. As the number of American seniors doubles in the coming years, and the likelihood of more tragic circumstances facing more families increases, the law must be changed to better address the needs of every American in such circumstance. The legacy of Terri Schiavo must be greater protections for disabled Americans.

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